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UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD

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JOHN H. KERR,

v.

MSPB DOCKET
NO. BN07528010005

NATIONAL ENDOWMENT FOR THE ARTS.

-----X

MOTION FOR AWARD OF ATTORNEY'S FEES

Request is hereby made for an award of attorney's fees to the attorney for John H. Kerr, who prevailed in this matter. See Opinion and Order dated April 9, 1981. This attorney has spent a total of 31 hours, 10 minutes on this matter, to date. Request is hereby made for an award of attorney's fees at the rate of \$75.00 per hour.

The primary duty of counsel in this matter has been to prod a reluctant Agency to live up to the law. The Agency has been involved in a rear-guard delaying action, to do anything to prevent Mr. Kerr's return to work.

The initial decision of the Boston Field Office made it clear that Mr. Kerr was entitled to reinstatement. The Agency chose to file a Petition for Review that was without merit and bordered upon the frivolous. This delayed the proceedings considerably and required

additional time from this attorney.

As of this date, Mr. Kerr has not been reinstated. The Agency continues to drag its feet, instead of putting Mr. Kerr back on the job. Although this matter is not yet finished, since compliance with the April 9, 1981 Order is still in doubt, this request for fees is being filed at this time to avoid any suggestion that it was not filed in a timely fashion. (Mr. Kerr contends that the Agency is not in compliance with the April 9, 1981 Order, as set forth in the letter of this attorney to William Carroll, Merit Systems Protection Board, Boston Office, dated May 22, 1981).